IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON''BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION No: 2563 of 2005

Between:

M/s.Mahalakshmi Oil Industries, Challakeri Road, Madakaripura, Chitradurg, Karnataka
State, rep.by its Manager, Mr.S.Mohan Raj.

..... PETITIONER

AND

The Assistant Commercial Tax officer, Intelligence, Chittoor Division, Chittoor.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction declaring the action of the Respondent in detaining the consignment of the Tanker No.KA01 AA930 carrying Sunflower Oil in a quantity of 19,580 Kgs from Chitradurg in Karnataka to perundurai in Tamilnadu by detention order dated 4-2-2005 and the notice of confiscation dated 8-2-2005 proposing to confiscate the consignment as illegal, arbitrary and without jurisdiction and without authority of law and consequently set aside the same and pass such other order or orders as the Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.BHASKAR REDDY VEMIREDDY

Counsel for the Respondent: MR.K.RAJ REDDY, SPL. SC FOR COMMERCIAL TAX

The Court made the following:

ORAL ORDER:- (PER MHSA,J.)

Having heard the learned counsel for respective parties and also keeping in view the nature of relief prayed for, we are inclined to dispose of the instant Writ Petition with certain appropriate directions.

2. Aggrieved by the order of the detention of the consignment of the Tanker No.KA01 AA930, petitioner has filed the instant Writ Petition.

3. A perusal of the impugned proceedings dated 08.02.2005 would show that the petitioner has been asked to show cause as to why the consignment should not be confiscated. The action is purported to be under Section 29(6-B) of the APGST Act. The commodity proposed for confiscation is sunflower oil worth Rs.7,75,368/- (Rs. Seven lakhs seventy five thousand three hundred and sixty eight only). Option has been given to the petitioner, by the impugned confiscation notice to pay security of Rs.7,75,000/- (Rs. Seven lakhs seventy five thousand only) for releasing of the goods till the issue is determined by the officer concerned.

4. In such view of the matter, we are not inclined, at this stage of proceedings, to go into the legality or validity of the contentions raised. It is open to the petitioner to submit his reply to the said show-cause notice and to agitate all such questions of fact and law as may be open to him.

5. With respect to the release of the goods in question, same being perishable in nature, we direct that pending disposal of the enquiry before the respondent, the goods shall be released to the petitioner, upon the petitioner furnishing a bank guarantee to the satisfaction of the respondent-Assistant Commercial Tax Officer Intelligence, Chittoor Division, Chittoor. Liberty to the petitioner to submit such bank guarantee to the satisfaction of the said officer within two weeks from date and upon furnishing such guarantee, the goods in question shall be released to the petitioner, pending the enquiry.

6. As the period of seven days within which petitioner was required to submit his reply having lapsed, we further direct that petitioner shall be entitled to file his objections to the impugned confiscation notice dated 08.02.2005 within two weeks from date hereof. Upon petitioner submitting his reply within the time stipulated herein, the same shall be taken on record and matter disposed of in accordance with law.

7. Accordingly, the Writ Petition is disposed of. No costs.

_____

M.H.S. ANSARI, J.

_____

T.CH. SURYA RAO, J.

Date: 15.02.2005

ES

Note:- Issue copy on priority basis.

B/o.

ES

To

1. The Assistant Commercial Tax officer, Intelligence, Chittoor Division, Chittoor.

2. 2 CCs to the G.P. for Commercial Tax, High Court of A.P., Hyderabad (OUT)

3 2 CD copies